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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,337	11/06/2003	Jonathan Joseph Kaufman	64835-033 8119	
7590 04/19/2004 Jonathan J. Kaufman			EXAMINER OLSZEWSKI, JOAN M	
112 Willow Str Brooklyn, NY			ART UNIT	PAPER NUMBER
			3677	
		DATE MAILED: 04/19/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date.				- /				
Examiner Samminer		Application No.	Applicant(s)	#				
Joan M. Olszevski 3677 3	Office Action Summers	10/702,337	KAUFMAN ET AL.					
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	3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) 🔲 Notice of Informal Pa						

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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 3-6 and 16-32, drawn to an article of jewelry or a key chain, classified in class 63, subclass 3.
- II. Claims 11-15 and 33, drawn to a method of therapeutically treating an anatomical site, classified in class 600, subclass 9.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product could be used in a different method. For example the jewelry could be used as a decoration on a jacket or other outer wear and not have a therapeutic usefulness.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

If group I is elected the following election of species is required.

This application contains claims directed to the following patentably distinct species of the claimed invention:

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Species I, Figures 1-4

Species II, Figure 5

Species III, Figure 6

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to William Kolakowski on April 8, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joan M. Olszewski whose telephone number is 703-305-2693. The examiner can normally be reached on Monday-Thursday (5:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joan M. Olszewski Patent Examiner Art Unit 3677

JMO

ROBERT J. SANDY
PRIMARY EXAMINER

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